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Councilman Bird made a MOTION to adjourn the meeting. Councilman Bennett SECONDED the motion, which passed unanimously. Mayor Nielson adjourned the meeting at 11:22 p.m.

Grant S. Nielson  
Mayor Grant S. Nielson

City Recorder Dorothy Jeffery

MINUTES OF A REGULAR CITY COUNCIL MEETING HELD AUGUST 8, 1983

PRESENT

Grant S. Nielson  
Don Bird  
Don Dafoe  
Ruth Hansen  
Willis Morrison

Mayor  
Council Member  
Council Member  
Council Member  
Council Member

ABSENT

Max Bennett

Council Member

OTHERS PRESENT

Vance Bishop  
Warren Peterson  
Dorothy Jeffery  
Neil Forster  
John Quick  
Sherri Terrell  
Dennis Westwood  
Greg Nielson  
Michelle Nielson  
Mike Van  
George Van DeVanter  
Doyle Bender  
Marvin Hartman  
Mrs. Marvin Harman  
JoAnn Ross  
Hyrum Fisher  
Oneida Fisher  
Al Stang  
Jim Fletcher  
Don Carleson

City Administrator  
City Attorney  
City Recorder  
Public Works Superintendent  
City Engineer  
City Secretary

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Mayor Nielson called the meeting to order at 8:00 p.m. and stated that notice of the time, place and agenda of the meeting had been posted at the principal office of the governing body and had been provided to the Millard County Chronicle, the Millard County Gazette and the local radio station, KNAK, and to each member of the governing body by personal delivery of copies of the Notice and Agenda two (2) days prior to the meeting.

#### MINUTES

The minutes of a Public Hearing held on August 1, 1983, were presented and corrected by the Council. Councilman Bird made a MOTION to accept the minutes as corrected. Council Member Hansen SECONDED the motion, which passed unanimously.

The minutes of a Regular City Council Meeting held August 1, 1983, were presented and corrected by the Council. Councilman Bird made a MOTION to accept the minutes as corrected. Councilman Dafoe SECONDED the motion, which passed unanimously.

The minutes of a Redevelopment Meeting held August 1, 1983, were presented to the Council. Councilman Dafoe made a MOTION to accept the minutes as presented. Council Member Hansen SECONDED the motion, which passed unanimously.

#### ACCOUNTS PAYABLE

City Recorder Dorothy Jeffery presented to the Council the list of accounts payable. Councilman Morrison made a MOTION to pay the current bills as corrected. Councilman Bird SECONDED the motion, which passed unanimously.

City Administrator Bishop stated that the City had received a bill from Dana, Larsen and Roubal Associates, the architect for the City Building project for their services rendered to date. The Council directed Mr. Bishop to pay the bill after the architect has seen that the contractor has signed his agreement and has met the insurance requirements.

#### GARBAGE DUMP MAINTENANCE AGREEMENT WITH WESTWOOD GARBAGE SERVICE AND MILLARD COUNTY

The Council reviewed the resolution and agreement between Delta City, Millard County, and Dennis Westwood for the maintenance of the Delta City Solid Waste Disposal Site. Councilman Dafoe made a MOTION to adopt Resolution 83-92 entitled:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DELTA, UTAH APPROVING AN AGREEMENT ENTITLED "INTERLOCAL COOPERATION ACT AGREEMENT FOR MAINTENANCE OF DELTA CITY SOLID WASTE SITE" BETWEEN DELTA CITY, MILLARD COUNTY AND DENNIS WESTWOOD AND AUTHORIZING DELTA CITY TO BECOME A PARTY TO THAT AGREEMENT AND AUTHORIZING EXECUTION AND ADMINISTRATION OF THE AGREEMENT

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Council Member Hansen SECONDED the motion. The mayor asked for a roll call vote.

Max Bennett	Absent
Don Bird	Yea
Don Dafoe	Yea
Ruth Hansen	Yea
Willis Morrison	Yea

After the voting, the Mayor signed the Resolution and the City Recorder attested it.

CITIZENS PETITION AGAINST THE GRANTING OF A BEER LICENSE TO 7-11 STORE AT CORNER OF CENTER AND MAIN

Doyle Bender asked the Council the following questions:

When did Southland Corporation apply for a Beer License?  
What restrictions were there at the time of application?  
What does proximity mean?  
What does adjacent mean?  
How will the fence stop the children from the increased traffic?

The Mayor stated that Southland Corporation had applied for the beer license before Ordinance No. 83-61 was published in the paper, and an ordinance does not become effective until published.

City Administrator Bishop stated that there had been no restrictions on Class A Licenses, but there had been restrictions on Class B and C.

City Attorney Peterson stated the previous standard for distance regulation was restatement of the state statute. In Class A Licenses the Council wanted to have the discretion to determine on a case by case basis as provided in the state statute.

Mr. Bender again asked what was proximity.

City Attorney Peterson stated that the Council has decided that proximity was to be determined by the Council on a case by case basis until enactment of the ordinance defining proximity as within 200 feet.

Mr. Bender asked how "adjacent" was related to "proximity"?

City Attorney Peterson stated that "adjacent" was not used in the state statute.

Mr. Bender asked what criteria was used to determine proximity when the Council approved the beer license to Southland Corporation.

City Attorney Peterson stated that the standard of 200 feet was not used. He stated that Mr. Bender was asking the legislative body what their legislative intent was in granting the license.

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Mayor Nielson stated that it appeared that the Council thought this would be the best for the town. He stated that Mr. Bender would need to inquire from each Council Member what their intent was.

Mr. Bender asked how much closer could proximity be than adjoining properties.

Mr. Bender presented the petition signed by the individuals in the area, who wished to ask the Council not to grant the Class A Beer License to Southland Corporation for a 7-11 Store. He stated that this 7-11 Store was also going to affect the children outside of our town, so he felt that the people in the Lynndyl, Leamington, and Oak City areas had the right to protest.

Councilman Dafoe stated that those children in that area will not be attending that school.

Councilman Bird stated that a good business would create revenue, create taxes, and would increase business and increase traffic flow, no matter what business was at this location.

Mike Van stated that he had come in and asked the City Recorder if he could get a beer license for this location. She had told him on two separate occasions that, in her opinion, she didn't feel like the Council would grant a beer license at this location. He stated that she had shown him the ordinance.

Mayor Nielson stated that no money or application was received for a Class A Beer license for Mr. Van; therefore, the Council never reviewed his situation. He stated that the Council saw fit to grant Southland Corporation a Class A Beer License.

Councilman Morrison made a MOTION to accept the petition, take it under advisement, and thank Mr. Bender for his presentation. Councilman Bird SECONDED the motion, which passed unanimously.

ORDINANCE FOR A ZONE CHANGE FROM MOBILE HOME TO R-4 ON A PORTION OF MITCH MYERS' PROPERTY IN THE WHITE SAGE DEVELOPMENT AREA

Mayor Nielson stated that a Public Hearing was held for this zone change and there was no opposition to the zone change.

The ordinance approving the zone change was presented to the Council. Councilman Bird made a MOTION to adopt Ordinance 83-64 entitled:

AN ORDINANCE AMENDING THE ZONING ORDINANCE OF DLETA, UTAH (ORDINANCE NO. 81-26) TO CHANGE CERTAIN ZONING DISTRICT BOUNDARIES TO INCLUDE ADDITIONAL TERRITORIES IN THE SINGLE AND MULTIPLE-FAMILY RESIDENTIAL (R-4) DISTRICT.

Council Member Hansen SECONDED the motion, after which the Mayor called for a roll call vote.

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Max Bennett	Absent
Don Bird	Yea
Don Dafoe	Yea
Ruth Hansen	Yea
Willis Morrison	Yea

The Mayor then signed Ordinance No. 83-64 and the City Recorder attested it.

ORDINANCE TO INCORPORATE THE AMENDMENTS TO THE STATE DRUNK DRIVING LAWS AS PART OF THE CITY CODE

Mayor Nielson stated that there has been various media reports published on the Utah drunk driving laws. He asked City Attorney Peterson for his comments.

City Attorney Peterson stated that he saw three potential problems in adopting the ordinance to incorporate the State Drunk Driving Laws as part of the City Code. He stated that there are cases in court on whether or not it violates an individuals due process rights to impound their vehicle or deprive them of their drivers license. He stated that the State Legislature passed a law that made automobile homicide involving drunk driving a Class A Misdemeanor and allowed the City to prosecute, but the State Constitution doesn't provide for Cities to prosecute Class A misdemeanors.

City Attorney Peterson stated that if the City does not adopt the ordinance the policemen can still arrest drunk drivers under the state law, but the County will have to prosecute. He stated that the County would receive all fines, fees and forfeitures. They would also be responsible for all costs incurred by the prosecution and housing of prisoners.

Mayor Nielson asked the City Attorney what would happen if the people already convicted later appealed on the grounds that the courts find that it is unconstitutional to impound their vehicles or deprive them of their drivers license.

City Attorney Peterson stated that it depends on the Supreme Court's decision if the state statute was ruled to be unconstitutional. He stated that a possibility would be to overturn convictions that were involved, but there would also be a question as to how far back the convictions could be overturned. City Attorney Peterson stated that this is a question that should be directed to the Attorney General's office because it involves all cities, not just Delta City.

City Attorney Peterson recommended that the vehicle homicides be prosecuted under state law rather than City Ordinance.

City Administrator Bishop asked City Attorney Peterson what it costs to prosecute for D.U.I.

City Attorney Peterson stated that it took 3-4 hours of his time, 1 hour of his secretary's time, and 2-3 hours of overtime for the arresting police

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officer. He stated that 1 out of every 10 persons arrested asks for a public defender which is \$250.00-\$300.00. He stated that the standard fine is \$299.00.

Mayor Nielson asked Attorney Peterson for his recommendation.

City Attorney Peterson recommended that no action be taken at this time, to table the matter until such time that further study could be made.

Council Member Hansen asked if this ordinance could be approved at a later date. City Attorney Peterson stated that the ordinance could be adopted later. He stated that the City is now working under the state statute, and would have to continue until the City adopts an ordinance.

Councilman Bird made a MOTION to table this matter until such time as the City Attorney could look into the ordinance and answer questions that have been raised. Council Member Hansen SECONDED the motion, which passed unanimously.

City Attorney Peterson stated that he wanted to renew his recommendation for the Mayor or his designee to talk with the County about housing prisoners.

RESOLUTION OF INTENT TO CREATE A SPECIAL IMPROVEMENT DISTRICT IN THE DELTA ESTATES SUBDIVISION AND ADJACENT COMMERCIAL AREAS FOR THE PURPOSE OF INSTALLING WATER AND SEWER LINES

The Resolution of Intention to Create a Special Improvement District in the Delta Estates area for the purpose of installing water and sewer lines was presented to, discussed and corrected by the Council.

City Attorney Peterson stated that Delta City has contributed quite a bit into this project to make it successful.

City Administrator Bishop suggested that the City hire a fiscal agent to walk the City through the special improvement district. He asked the Council for permission to contact agencies to price how much their fee would be to do this leg work.

Councilman Dafoe suggested that the City hire a local firm if there were any qualified and fees were reasonable to hire them.

Councilman Bird recommended that Mr. Bishop contact Boettcher's firm and see if the City is committed to their services under contract.

Don Carleson asked if it would be possible to hook into the water on the lot North of Bob and Nancy Oppenheimer's horse corrals, if he were to purchase it. He stated that the water line fronted the property. City Attorney Peterson recommended that Mr. Carleson be allowed to hook to the water if he agreed to pay the connection fees now and then when the Special Improvement District assessments are made, he would be assessed for a lot without connection fees.

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Councilman Morrison made a MOTION to authorize City Administrator Bishop to contact a fiscal agent for the improvement district, and to adopt Resolution No. 83-93 entitled:

A RESOLUTION DECLARING THE INTENTION OF THE CITY COUNCIL OF DELTA CITY, MILLARD COUNTY, STATE OF UTAH, TO CONSTRUCT IMPROVEMENTS WITHIN SAID MUNICIPALITY CONSISTING OF THE OF THE ACQUISITION AND INSTALLATION OF WATER AND SEWER LINE EXTENSIONS AND CONNECTIONS, AND ALL OTHER MISCELLANEOUS WORK NECESSARY TO COMPLETE THE IMPROVEMENTS IN A PROPER WORKMANLIKE MANNER AND TO FINANCE THE PAYMENT OF WATER AND SEWER CONNECTION FEES; TO CREATE DELTA CITY, UTAH SPECIAL IMPROVEMENT DISTRICT NO. 83-1; TO DEFRAY THE COST AND EXPENSES OF SAID IMPROVEMENT DISTRICT BY SPECIAL ASSESSMENTS TO BE LEVIED AGAINST THE PROPERTY BENEFITED BY SUCH IMPROVEMENTS AND TO FIX A TIME AND PLACE FOR PROTESTS AGAINST SUCH IMPROVEMENTS OR CREATION OF SAID DISTRICT.

Councilman Dafoe SECONDED the motion. The Mayor asked for a roll call vote.

Max Bennett	Absent
Don Bird	Yea
Don Dafoe	Yea
Ruth Hansen	Yea
Willis Morrison	Yea

After the voting the Mayor signed Resolution 83-93 and the City Recorder attested it.

#### DISCUSSION OF COUNCIL MEETING AGENDA CRITERIA AND PREPARATION

City Administrator Bishop stated that it had been suggested that a deadline be established for items and material submitted for Council Meeting. He stated that it was difficult to get the material to the Council if it wasn't submitted by Thursday afternoon.

The Council discussed the possibility of getting subject matter that needed reviewing to them in time for them to make a thorough study of the material. They want to leave the agenda open as long as possible to allow urgent matters that may rise to be put on the agenda for action. The Council directed the City Administrator to require ordinances, resolutions, and any other item that may require lengthy documentation to be handed out at the Council Meeting prior to the week it is to be on the agenda. All other submittals should be in by Thursday afternoon.

Mayor Nielson suggested that Council Meeting be cancelled next week to have a Council and employee party. The Council discussed party plans and agreed with the Mayor's suggestions.

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DELTA CITY REDEVELOPMENT AGENCY: INSTRUCTIONS TO STAFF ON CREATION OF THE REDEVELOPMENT DISTRICT

City Administrator Bishop requested permission to contact Attorney Bill Oswald, an expert on redevelopment agencies, to assist in the creation of a Redevelopment Agency. Councilman Bird stated that Bill Oswald should submit a cost figure for his services. Councilman Morrison made a MOTION to authorize the City Administrator and the City Attorney to start proceedings to create a Redevelopment District, and to consult with Bill Oswald in helping with the creation of the district. Councilman Bird SECONDED the motion, which passed unanimously.

OTHER BUSINESS

Councilman Morrison stated that the City has committed to submit to Roger Stowell, IPP Representative, the capital and operation and maintenance money requested from IPP on Tuesday, August 16, 1983. The Mayor, City Administrator, and Councilman Morrison decided to meet Wednesday afternoon to condense and draw up a report for IPP.

Mayor Nielson stated that the new sidewalk on Center Street has created a problem. It is as much as two feet higher than the road in some places, making it very difficult for the property owners to get into their driveways. He asked City Engineer John Quick if there were provisions made in the contract for this problem.

Mr. Quick stated that there were no requirements on grading driveway entrances. Mr. Quick stated that he and Public Works Superintendent Neil Forster would look into the situation on Tuesday, August 9, 1983.

Mayor Nielson presented a letter from the U.S. Post Office, requesting a recommendation from Delta City on where a bigger Post Office should be located. Councilman Bird made a MOTION for the Post Office to be left at the present location and make the necessary additions. Council Member SECONDED the motion, which passed unanimously.

City Engineer Quick presented a pay request from K&P Plumbing of \$112,860.00, holding a 10% retention fee from the \$125,425.00 contract figure. He stated that they are 80% completed. Councilman Bird made a MOTION to pay K&P Plumbing \$112,860.00. Councilman Dafoe SECONDED the motion, which passed unanimously.

City Attorney Peterson stated that a commuter route was going to be built to the IPP Site. He asked if the City would like their recommendation to be submitted to the County for consideration. The Council concurred that a road to the IPP Site which would require the use of City streets would be suitable as long as the heavy trucks were routed elsewhere.

City Attorney Peterson stated he had met with LaVar Cox of IPP concerning a right-of-way problem with a road going into White Sage Subdivision. IPP was going to have a meeting to discuss the 66 foot right-of-way that they



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acquired from the County and the City is to assume once the improvements are completed. He stated that there may not actually be 66 feet, that there is a dispute as to 5½ feet. This would affect the utilities easements if utilities were located within this 5½ feet. He suggested that the Council give the Mayor and City Administrator the authority to negotiate and sign the agreement on the right-of-way. Councilman Dafoe made a MOTION to give the Mayor and City Administrator the authority to negotiate with IPP on the right-of-way of the road that was transferred from the County. Councilman Bird SECONDED the motion, which passed unanimously.

Mr. Forster stated that Inez Moody had called and asked to report that the Kiwanis had made \$4,545.13 in total profit from the events held Saturday, August, 6, 1983, for the flood victims.

Public Works Superintendent Neil Forster stated that Westcon had phoned him and wanted to know if they were to pay for the rent of the property at the Airport. They have not received a contract yet. He was directed to tell Westcon to pay the rent. City Attorney Peterson stated that he would get the contract to them as soon as possible, but that rent should be paid.

Councilman Bird made a MOTION to adjourn the meeting. Councilman Morrison SECONDED the motion, which passed unanimously. The Mayor adjourned the meeting at 11:46 p.m.

  
Mayor Grant S. Nielson

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City Recorder Dorothy Jeffery

MINUTES OF A SPECIAL CITY COUNCIL MEETING HELD AUGUST 15, 1983

PRESENT

Grant Nielson  
Max Bennett  
Don Bird  
Don Dafoe  
Ruth Hansen  
Willis Morrison

Mayor  
Council Member  
Council Member  
Council Member  
Council Member  
Council Member